



Reprinted
March 7, 2001

SENATE BILL No. 340

DIGEST OF SB 340 (Updated March 6, 2001 2:28 PM - DI 105)

Citations Affected: IC 35-46.

Synopsis: Fraudulent schemes relating to health care providers. Prohibits an owner or employee at certain health care providers from receiving money or assets as a loan or gift from an individual who receives care from the provider. Makes the penalty for committing the offense a Class A infraction. Permits otherwise prohibited gift if it is made in writing before two disinterested witnesses. Permits a prosecuting attorney to obtain reimbursement.

Effective: July 1, 2001.

Zakas, Hume

January 16, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

March 1, 2001, amended, reported favorably — Do Pass.

March 6, 2001, read second time, amended, ordered engrossed.

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SB 340—LS 7809/DI 105+



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March 7, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 340

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-46-7 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]:

4 **Chapter 7. Offenses Against Persons Receiving Care**

5 **Sec. 1. As used in this chapter, "health care provider" means:**

- 6 (1) a hospital licensed under IC 16-21;
7 (2) a health facility licensed under IC 16-28;
8 (3) a housing services establishment that is required to file a
9 disclosure statement under IC 12-15;
10 (4) a continuing care retirement community that is required
11 to file a disclosure statement under IC 23-2-4;
12 (5) a home health agency licensed under IC 16-27;
13 (6) a hospice licensed under IC 16-25;
14 (7) an entity that provides licensed or certified health care
15 professionals to:
16 (A) a health care provider; or
17 (B) a person who is in need of, or receives, professional

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- 1 health care services;
- 2 (8) a community mental health center (as defined in
- 3 IC 12-7-2-38);
- 4 (9) a private psychiatric hospital licensed under IC 12-25;
- 5 (10) a state institution (as defined in IC 12-7-2-184); or
- 6 (11) a community residential facility for the developmentally
- 7 disabled that is licensed under IC 12-28-5.

8 **Sec. 2. This chapter does not apply to the following:**

- 9 (1) A gift or donation of money or other asset given to:
 - 10 (A) a health care provider in the corporate name of the
 - 11 health care provider; or
 - 12 (B) an entity that is organized under Section 501(c)(3) of
 - 13 the Internal Revenue Code.
- 14 (2) A gift or loan of money or other asset given by a person
- 15 who receives services from a health care provider to a
- 16 member of the person's family who:
 - 17 (A) is employed by a health care provider; or
 - 18 (B) owns, wholly or jointly, a health care provider.
- 19 (3) A bequest of personal property or devise of real property
- 20 made in an executable will as described in IC 29-1-5-5 to a
- 21 health care provider, an owner, an employee, or an agent of
- 22 a health care provider.
- 23 (4) The purchase of a security (as defined in IC 23-2-1-1) that
- 24 is traded on a national or regional exchange.
- 25 (5) A gift or gratuity, not exceeding five hundred dollars
- 26 (\$500) in the aggregate per year per protected person, to an
- 27 employee of a health care provider.
- 28 (6) A gift or donation of money or other asset given to
- 29 purchase or otherwise acquire a product, service, or amenity
- 30 for the use, entertainment, or enjoyment of persons receiving
- 31 services from a health care provider.

32 **Sec. 3. (a) The following transactions are subject to the**

33 **requirements of subsection (b):**

- 34 (1) A gift, a donation, a loan, or an investment from a person
- 35 who receives services from a health care provider to an
- 36 owner, employee, or agent of the health care provider in the
- 37 name of the owner, employee or agent.
- 38 (2) A loan or an investment from a person who receives
- 39 services from a health care provider to the health care
- 40 provider in the corporate name of the health care provider.
- 41 (b) A transaction under subsection (a) must be executed in
- 42 writing and witnessed by two (2) disinterested parties. Each



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1 witness shall sign a document that describes the transaction in the
2 presence of:

3 (1) the person who makes the transaction; and

4 (2) the other witness.

5 (c) A health care provider, or an owner, an employee, or an
6 agent of a health care provider, who:

7 (1) receives a gift, a donation, a loan, or an investment from
8 a person who receives services from a health care provider;
9 and

10 (2) fails to conform with the requirements of subsection (b);
11 commits a Class A infraction. Without regard to the amount of the
12 transaction, the court that imposes the penalty for the infraction
13 violation may, upon the request of the prosecuting attorney, order
14 the person to pay the amount received in violation of this section,
15 plus interest from the date of the transaction, to the protected
16 person or the estate of the protected person.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 340, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete line 1, begin a new paragraph and insert:

"SECTION 1. IC 34-30-2-152.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 152.2. IC 35-46-7-5 (Concerning the reporting of suspicious activity in a deposit account by a financial institution).**

SECTION 2. IC 35-46-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 7. Offenses Against Persons Receiving Care

Sec. 1. As used in this chapter, "health care provider" means:

- (1) a hospital licensed under IC 16-21;**
- (2) a health facility licensed under IC 16-28;**
- (3) a housing services establishment that is required to file a disclosure statement under IC 12-15;**
- (4) a continuing care retirement community that is required to file a disclosure statement under IC 23-2-4;**
- (5) a home health agency licensed under IC 16-27;**
- (6) a hospice licensed under IC 16-25;**
- (7) an entity that provides licensed or certified health care professionals to:**
 - (A) a health care provider; or**
 - (B) a person who is in need of, or receives, professional health care services;**
- (8) a community mental health center (as defined in IC 12-7-2-38);**
- (9) a private psychiatric hospital licensed under IC 12-25;**
- (10) a state institution (as defined in IC 12-7-2-184); or**
- (11) a community residential facility for the developmentally disabled that is licensed under IC 12-28-5."**

Page 1, delete lines 2 through 17.

Delete page 2.

Page 3, delete lines 1 through 2.

Page 3, line 3, delete "1, 2001]: Sec. 7.1. (a)", begin a new paragraph and insert "**Sec. 2.**".

Page 3, line 3, delete "section" and insert "**chapter**".



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Page 3, delete lines 10 through 27, begin a new paragraph and insert:

"Sec. 3. This chapter does not apply to the following:

- (1) A gift or donation of money or other asset given to:**
 - (A) a health care provider in the corporate name of the health care provider; or**
 - (B) a health care provider that is organized under Section 501(c)(3) of the Internal Revenue Code.**
- (2) A gift or loan of money or other asset given by a person who receives services from a health care provider to a member of the person's family who:**
 - (A) is employed by a health care provider; or**
 - (B) owns, wholly or jointly, a health care provider.**
- (3) A bequest of personal property or devise of real property made in an executable will as described in IC 29-1-5-5 to a health care provider, an owner, an employee, or an agent of a health care provider.**
- (4) The purchase of a security (as defined in IC 23-2-1-1) that is traded on a national or regional exchange.**
- (5) A gift or gratuity, not exceeding five hundred dollars (\$500) in the aggregate per year per protected person, to an employee of a health care provider.**
- (6) A gift or donation of money or other asset given to purchase or otherwise acquire a product, service, or amenity for the use, entertainment, or enjoyment of persons receiving services from a health care provider.**

Sec. 4. (a) The following transactions are subject to the requirements of subsection (b):

- (1) A gift, a donation, a loan, or an investment from a person who receives services from a health care provider to:**
 - (A) the health care provider in the health care provider's individual capacity; or**
 - (B) an owner, employee, or agent of the health care provider;**

in the name of the health care provider, owner, employee or agent.

- (2) A loan or an investment from a person who receives services from a health care provider to the health care provider in the corporate name of the health care provider.**

(b) A transaction under subsection (a) must be executed in writing and witnessed by two (2) disinterested parties. Each witness shall sign a document that describes the transaction in the

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presence of:

- (1) the person who makes the transaction; and
- (2) the other witness.

(c) A health care provider, or an owner, an employee, or an agent of a health care provider, who:

- (1) receives a gift, a donation, a loan, or an investment from a person who receives services from a health care provider; and

(2) fails to conform with the requirements of subsection (b); commits a Class A infraction. Without regard to the amount of the transaction, the court that imposes the penalty for the infraction violation may, upon the request of the prosecuting attorney, order the person to pay the amount received in violation of this section, plus interest from the date of the transaction, to the protected person or the estate of the protected person."

and when so amended that said bill do pass.

(Reference is to SB 340 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Hume be added as coauthor of Senate Bill 340.

ZAKAS

 SENATE MOTION

Mr. President: I move that Senate Bill 340 be amended to read as follows:

Page 1, delete lines 1 through 5.

Page 2, delete lines 13 through 18.

Page 2, line 19, delete "3" and insert "2".

Page 2, line 23, delete "a health care provider" and insert "**an entity**".

Page 3, line 1, delete "4" and insert "3".

Page 3, line 4, delete "to:" and insert "**to**".

Page 3, delete lines 5 through 6.

Page 3, line 7, delete "(B)".

Page 3, line 8, delete "provider;" and insert "**provider**".

Page 3, run in lines 4 through 9.

Page 3, line 9, delete "health care provider,".

Re-number all SECTIONS consecutively.

(Reference is to SB 340 as printed March 2, 2001.)

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